

Nos. 16-2058; 16-2081

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

In re: AUTOMOTIVE PARTS ANTITRUST
LITIGATION (No. 16-2058).

In re: WIRE HARNESSES (No. 16-2081).

END-PAYOR PLAINTIFFS,

Plaintiffs-Appellees,

BENJAMIN FEURY; THOMAS SARRIS,

Objectors-Appellants,

v.

NIPPON SEIKI COMPANY, LTD, et al.,

Defendants-Appellees.

FILED

Nov 18, 2016

DEBORAH S. HUNT, Clerk

ORDER

Before: GUY and MOORE, Circuit Judges; HOOD, District Judge.*

In this multidistrict antitrust litigation, Objectors Benjamin Feury and Thomas Sarris appeal the June 20, 2016 order approving a class action settlement and the June 20, 2016 order awarding attorney fees to the End-Payor plaintiffs. They filed two notices of appeal. One was filed in the Master Docket, No. 12-md-2311, and is pending as No. 16-2058. A second notice of

* The Honorable Joseph M. Hood, United States District Judge for the Eastern District of Kentucky, sitting by designation.

Nos. 16-2058; 16-2081

-2-

appeal was filed in the End-Payor Automotive Wire Harness Systems docket, No. 12-cv-0103, and is pending as No. 16-2081.

The June 20 orders apply to nineteen individual cases, including No. 12-cv-0103. The June 20 orders were entered in all nineteen cases, but they were not entered on the Master Docket. The notice of appeal filed on the Master Docket purports to appeal the June 20 orders entered in each of the nineteen cases, including No. 12-cv-0103. However, the Objectors did not file a notice of appeal in eighteen of the cases to which the June 20 orders apply.

An appeal is perfected by filing a timely notice of appeal in the district court in accordance with Federal Rules of Appellate Procedure 3 and 4. In a civil action, the filing of a timely notice of appeal is a jurisdictional requirement. *Bowles v. Russell*, 551 U.S. 205, 214 (2007). The consolidation of cases for pretrial purposes by the MDL Panel under 28 U.S.C. § 1407 is to promote efficient judicial administration and does not merge the actions into a single case. *See Gelboim v. Bank of Am. Corp.*, 135 S. Ct. 897, 905 (2015). The nineteen cases that have been settled have not been consolidated for all purposes, but retain their individual identity. The notice of appeal filed in the Master Docket is ineffective to appeal the orders entered in the individual cases. The Objectors have perfected an appeal only in No. 12-cv-0103.

In response to a show cause, the Objectors argue that it would be a denial of due process to require them to file a notice of appeal in each of the nineteen cases and to pay approximately \$10,000 in filing fees. They maintain that, as objectors, they have a due process right to appeal, and to require the payment of an excessive fee to appeal the orders is unreasonable. The Objectors have not presented any evidence that the payment of the required filing fees for an additional eighteen appeals would be an undue burden. And they did not seek leave to proceed

Nos. 16-2058; 16-2081

-3-

on appeal *in forma pauperis*. Requiring appellants to either pay the required filing fee or move for pauper status does not violate due process.

Case No. 16-2058 is **DISMISSED** for lack of jurisdiction. Case No. 16-2081 is limited to an appeal from the June 20 orders entered in No. 12-cv-0103.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: November 18, 2016

Ms. Marla Linderman
Linderman Julien
116 E. Washington Street
Suite 150
Ann Arbor, MI 48104-0000

Re: Case No. 16-2081, *End-Payor Plaintiffs, et al v. Nippon Seiki
Company, Ltd., et al*
Originating Case No. : 2:12-cv-00103 : 2:12-md-02311

Dear Ms. Linderman,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Robin Baker
Case Manager
Direct Dial No. 513-564-7027

cc: Mr. Peter M. Falkenstein
Mr. James Powell Feeney
Ms. Michelle Karen Fischer
Mr. Brian K. Grube
Mr. William H. Horton
Mr. Howard B. Iwrey
Ms. Meredith Jones Kingsley
Mr. Peter Kontio
Ms. Tiffany Danielle Lipscomb-Jackson
Mr. John Michael Majoras
Mr. Andrew S. Marovitz
Mr. Terrell W. Oxford
Mr. William Reiss
Mr. Michael Adam Rubin
Ms. Hollis L. Salzman

Mr. William Parker Sanders
Ms. Marguerite Sullivan
Ms. Joanne G. Swanson
Mr. David J. Weaver
Mr. Steven N. Williams

Enclosure